

DH 684	<u>(November 1996)</u>	<u>Immunization Annual Report of Compliance for Kindergarten and Seventh Grade</u>	DOH CHDs
DH 685	<u>(November 1996)</u>	<u>Kindergarten and Seventh Grade Annual Report of Compliance County Summary</u>	DOH CHDs
DH 150-615	<u>(July 2001)</u>	<u>Immunization Guidelines Florida Schools, Child Care Facilities and Family Day Care Homes</u>	DOH CHDs
DH 150-615	<u>(July 2002)</u>	<u>Immunization Guidelines Florida Schools, Child Care Facilities and Family Day Care Homes Effective July 2002</u>	DOH CHDs
DH 1478	<del>Nov-2000</del> <u>(November 2000)</u>	Florida SHOTS Notification and Opt Out Form <u>(English Version)</u>	DOH Bureau of Immunization 4052 Bald Cypress Way, Bin # A-11 Tallahassee, FL 32399-1719
DH 1478S	<u>(November 2000)</u>	<u>Florida SHOTS Notification and Opt Out Form (Spanish Version)</u>	<u>DOH Bureau of Immunization 4052 Bald Cypress Way, Bin # A-11 Tallahassee, FL 32399-1719</u>
DH 1478H	<u>(February 2002)</u>	<u>Florida SHOTS Notification and Opt Out Form (Haitian Creole Version)</u>	<u>DOH Bureau of Immunization 4052 Bald Cypress Way Bin # A-11 Tallahassee, FL 32399-1719</u>
DH 1479	<del>Nov-2000</del> <u>(November 2000)</u>	Authorized Private Provider User Agreement for Access to Florida SHOTS (State Health Online Tracking System)	DOH Bureau of Immunization 4052 Bald Cypress Way Bin # A-11 Tallahassee, FL 32399-1719
DH 2115	<del>Nov-2000</del> <u>(November 2000)</u>	Authorized School and Licensed or Registered Child Care Facility User Agreement For Access to Florida SHOTS (State Health Online Tracking System)	DOH Bureau of Immunization 4052 Bald Cypress Way, Bin # A-11 Tallahassee, FL 32399-1719

Specific Authority 232.032(1), 381.0011(13), 381.003(1), (2), 381.005(2) FS. Law Implemented 232.032(1), 381.0011(4), 381.003(1), 381.005(1)(i) FS. History—New 12-29-77, Amended 6-7-82, 11-6-85, Formerly 10D-3.88, Amended 2-26-92, 9-20-94, 9-21-95, 4-7-96, Formerly 10D-3.088, Amended 7-14-99, 1-22-01, 7-23-01.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Charles H. Alexander, Chief, Bureau of Immunization  
NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Landis K. Crockett, M.D., M.P.H., Director, Division of Disease Control  
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: April 18, 2002  
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: January 18, 2002

### Section III Notices of Changes, Corrections and Withdrawals

#### DEPARTMENT OF BANKING AND FINANCE Board of Funeral and Cemetery Services

RULE NO.: 3F-5.0016  
RULE TITLE: Certificate of Authority; Financial Requirements  
NOTICE OF CHANGE

Notice is hereby given that the following changes have been made to the proposed rule in accordance with subparagraph 120.54(3)(d)1., F.S., published in Vol. 28, No. 8, of the February 22, 2002, issue of the Florida Administrative Weekly. The changes are in response to written comments submitted by the staff of the Joint Administrative Procedures Committee. The Board, at its meeting held on April 19, 2002, voted to change subsection (2) of the rule to read as follows:

(2) A Certificate of Authority holder or applicant must submit its most recent year-end financial statements (including a balance sheet and income statement), with the Certificate of Authority application and annually thereafter as provided in Section 497.407(1), F.S. The financial statements must be prepared in accordance with generally accepted accounting principles (GAAP) as those principles have been defined by the Florida Board of Accountancy in Chapter 61H1-20, F.A.C. If the applicant does not have the minimum net worth as set forth in section three (3) or lacks sufficient liquid assets to satisfy current liabilities or does not appear to have any substantial long-term assets, the Department shall request additional financial information concerning financial statements and the statement of cash flows.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Diana Evans, Executive Director, Board of Funeral and Cemetery Services, 101 East Gaines Street, Tallahassee, Florida 32399-0350

**DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES**

**Division of Agricultural Water Policy**

RULE NOS.:                   RULE TITLES:  
 5M-2.002                   Definitions  
 5M-2.005                   Notice of Intent to Implement

**NOTICE OF CHANGE**

Notice is hereby given that the following changes have been made in the proposed rules in accordance with subparagraph 120.54(3)(d)1., F.S., published in Vol. 28, No. 13, March 29, 2002, of the Florida Administrative Weekly.

The changes were made in response to written comments received from The Florida Legislature Joint Administrative Procedures Committee.

Rule 5M-2.002, F.A.C., Definitions, has been deleted. All subsequent rules have been renumbered to reflect this change.

One sentence in subsection 5M-2.005(1), F.A.C., has been changed so that when adopted it will read: "...and the signature of the owner, lease holder, or an authorized agent."

THE PERSON TO BE CONTACTED REGARDING THE NOTICE OF CHANGE IS: W. Mark Jennings, Environment Specialist III, Office of Agricultural Water Policy, 1203 Governors Square Blvd., Suite 200, Tallahassee, FL 32301, Telephone (850)488-6249, Fax (850)921-2153

**DEPARTMENT OF TRANSPORTATION**

RULE CHAPTER NO.:    RULE CHAPTER TITLE:  
 14-15                   Incorporation by Reference  
 RULE NO.:             RULE TITLE:  
 14-15.002             Manual of Uniform Minimum  
                              Standards for Design,  
                              Construction and Maintenance  
                              for Streets and Highways

**NOTICE OF CHANGE**

The Notice of Proposed Rule Development was published on Page 1430 of the April 29, 2002, *Florida Administrative Weekly*, but was inadvertently placed in Section II, Proposed Rules. A correction notice was published by the Department of State in Vol. 28, No. 17, Florida Administrative Weekly, Pages 1860-1861, dated April 26, 2002.

The Notice of Rulemaking published in the May 3, 2002, *Florida Administrative Weekly*, incorrectly referred to the date and page(s) of the Notice of Proposed Rule Development. That reference is corrected as follows:

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: March 29, 2002, Page 1430, as corrected by separate notice published in the April 26, 2002, *Florida Administrative Weekly*, Pages 1860-1861.

**ADMINISTRATION COMMISSION**

RULE CHAPTER NO.:    RULE CHAPTER TITLE:  
 28-18                   Land Planning Regulations for the  
                              Florida Keys Area of Critical  
                              State Concern – City of  
                              Marathon

RULE NO.:             RULE TITLE:  
 28-18.200             Comprehensive Plan

**NOTICE OF CHANGE**

Notice is hereby given that the following changes have been made to the proposed rule in accordance with subparagraph 120.54(3)(d)1., F.S., published in Vol. 28, No. 8, February 22, 2002, issue of the Florida Administrative Weekly.

28-18.200 Comprehensive Plan.

The Transitional Comprehensive Plan of the City of Marathon established by Chapter 99-427, Laws of Florida, is amended as follows:

- (1) No change.
- (a) through (b) No change.
- (c) Except as provided below for the Little Venice sewer system, n

Nutrient reduction credits earned by construction of a central sewer system using best available technology or advanced wastewater treatment shall be earned according to the following schedule at the time that a wastewater construction permit is issued by DEP for each phase of the project and a design/build or construction contract has been executed:

- 1. One-third of the total credits estimated to be available from the full operation of the system shall be earned when the wastewater construction permit for the system is issued by DEP, the design/build contract for the system has been fully executed, and construction of the system has commenced.
- 2. One-third of the total estimated credits shall be earned when the construction of the system is 50 percent complete.
- 3. All remaining available credits shall be earned when the construction of the system is 100 percent complete, the collection system lines have been installed, and when the final total of credits available from operation of the system has been calculated.

The nutrient reduction credits earned by the construction of the Little Venice system shall be earned according to the following schedule:

- 1. 250 of the total credits estimated to be available from the full operation of the system shall be earned when the wastewater construction permit for the system is issued by DEP, the design/build contract for the system has been fully executed, and construction of the system has commenced. Of these credits, 54 shall be made available to the Meridian West affordable housing project and 52 to the Tradewinds affordable housing project, and 42 to a proposed affordable housing project in the City of Marathon. Any credits not used for these affordable housing projects shall be available for future

allocation pursuant to paragraph 2. below. In addition, 60 of these credits shall be made available to Monroe County and 42 of these credits shall be made available to the City of Marathon.

2. All remaining available credits shall be earned when the construction of the system is 100 percent complete, the collection system lines have been installed, and when the final total of credits available from operation of the system has been calculated.

The nutrient reduction credits that are earned from the construction of such a central sewer system, in which state or federal funds are used, shall be allocated as follows:

1. The local government ~~which contributed funds for said construction~~ shall receive a pro rata share of the earned nutrient reduction credits in proportion to the amount of funds ~~it~~ contributed from its jurisdiction to the total construction costs; and

2. The remaining earned nutrient reduction credits shall be allocated between Monroe County, the City of Marathon, and the Islamorada, Village of Islands in proportion to the annual ROGO allocation of each to the total annual ROGO allocation for these local governments.

(d) No change.

(e) The Work Program in Policy 101.2.13 for Year 4, Year 5, Year 6, and Year 7 shall be modified as follows:

YEAR FOUR (July 13, 2000 through July 12, 2001)

A. through C. No change.

YEAR FIVE (July 13, 2001 through July 12, 2002)

A. through D. No change.

YEAR SIX (July 13, 2002 through July 12, 2003)

A. through D. No change.

YEAR SEVEN (July 13, 2003 through July 12, 2004)

A. and B. No change.

Specific Authority 380.0552(9) FS. Law Implemented 380.0552 FS. History—New\_\_\_\_\_.

NAME OF PERSON TO BE CONTACTED REGARDING THE NOTICE OF CHANGE IS: Mike McDaniel, Growth Management Administrator, 2555 Shumard Oak Boulevard, Tallahassee, Florida 32399-2100, (850)487-4545

**ADMINISTRATION COMMISSION**

RULE CHAPTER NO.:	RULE CHAPTER TITLE:
28-20	Land Planning Regulations for the Florida Keys Area of Critical State Concern – Monroe County
RULE NO.:	RULE TITLE:
28-20.100	Comprehensive Plan

**NOTICE OF CHANGE**

Notice is hereby given that the following changes have been made to the proposed rule in accordance with subparagraph 120.54(3)(d)1., F.S., published in Vol. 28, No. 8, February 22, 2002, issue of the Florida Administrative Weekly.

The Monroe County Comprehensive Plan Policy Document, as the same exists on May 15, 2001, is hereby amended as follows:

28-20.100 Comprehensive Plan.

(1) through (34) No change.

(35) Policy 101.2.13

Monroe County shall establish an interim Permit Allocation System for new residential development. The interim Permit Allocation System shall supersede Policy 101.2.1 and remain in place until such time as Monroe County determines its future growth capacity based on hurricane evacuation, public safety and environmental needs including water quality and habitat protection, and amends its plan consistent with such determination, based on the results of the work program as set forth below. DEP, DOH, DCA and Monroe County shall develop a coordinated permit review process that will insure that no state agency shall issue a wastewater disposal permit that would allow development in excess of the number of permits that Monroe County may issue under this interim policy. Similarly, Monroe County shall not issue development permits under this interim policy in excess of wastewater disposal permits that DEP or DOH may issue. For Years 3 and 4 of the Work Program, the interim Permit Allocation System shall allow a minimum of 88 new residential permits per year which may be used to address the backlog of ROGO allocations. Additional new residential permits will be allowed but limited to the number of nutrient reduction credits earned within the same unincorporated ROGO area. Nutrient reduction credits shall be earned consistent with Table 1 below. Except as provided below for the Little Venice sewer system, nutrient reduction credits earned by construction of a central sewer system using best available technology or advanced wastewater treatment shall be earned according to the following schedule at the time that a wastewater construction permit is issued by DEP for each phase of the project and a design/build or construction contract has been executed:

1. One-third of the total credits estimated to be available from the full operation of the system shall be earned when the wastewater construction permit for the system is issued by DEP, the design/build contract for the system has been fully executed, and construction of the system has commenced.

2. One-third of the total estimated credits shall be earned when the construction of the system is 50 percent complete.

3. All remaining available credits shall be earned when the construction of the system is 100 percent complete, the collection system lines have been installed, and when the final total of credits available from operation of the system has been calculated.

The nutrient reduction credits earned by the construction of the Little Venice system shall be earned according to the following schedule:

1. 250 of the total credits estimated to be available from the full operation of the system shall be earned when the wastewater construction permit for the system is issued by DEP, the design/build contract for the system has been fully executed, and construction of the system has commenced. Of these credits, 54 shall be made available to the Meridian West affordable housing project and 52 to the Tradewinds affordable housing project, and 42 to a proposed affordable housing project in the City of Marathon. Any credits not used for these affordable housing projects shall be available for future allocation pursuant to paragraph 2 below. In addition, 60 of these credits shall be made available to Monroe County and 42 of these credits shall be made available to the City of Marathon.

2. All remaining available credits shall be earned when the construction of the system is 100 percent complete, the collection system lines have been installed, and when the final total of credits available from operation of the system has been calculated.

The nutrient reduction credits that are earned from the construction of such a central sewer system, in which state or federal funds are used, shall be allocated as follows:

1. The local government ~~which contributed funds for said construction~~ shall receive a pro rata share of the earned nutrient reduction credits in proportion to the amount of funds ~~it~~ contributed from its jurisdiction to the total construction costs; and

2. The remaining earned nutrient reduction credits shall be allocated between Monroe County, the City of Marathon, and the Islamorada, Village of Islands in proportion to the annual ROGO allocation of each to the total annual ROGO allocation for these local governments.

Nutrient reduction credits earned using funds provided by the State and matched by the County in fiscal years 1997-98 and 1998-99 will be used to offset the nutrient impacts of the 88 new residential permits per year, but may not be used for additional new residential permits until such time as these funds generate more than 88 nutrient reduction credits for Years 3 and 4. For Year 5, the interim Permit Allocation System shall allow a minimum of 77 new residential permits. If fewer than 77 nutrient reduction credits are earned in Year 5, the deficit shall be made up in Year 6 prior to issuance of any new permits. For Year 6 and beyond, the interim permit allocation system shall limit the number of permits issued for new residential development to the number of nutrient reduction credits earned within the same unincorporated ROGO area, except as otherwise authorized herein. For all years the number of permits issued for new residential development under the Rate of Growth Ordinance shall not exceed a total unit cap of 197 new residential units per year. The restored permits (39) are encouraged to be dedicated to affordable housing. This allocation represents the total number of new permits for development that may be issued during a

ROGO year. No exemptions or increases in the number of new permits, other than that which may be expressly provided for in the comprehensive plan or for which there is an existing agreement for affordable housing between the Department and the local government in the critical areas, may be allowed. Monroe County shall develop a tracking system for monitoring the nutrient reduction credits earned. The tracking system shall commence upon the effective date of this rule and the number of nutrient reduction credits earned shall be cumulative and may be applied to future years of the interim Permit Allocation System.

Table 1  
Nutrient Reduction Credits

	Treatment System Upgraded To			
	On-site Treatment	Centralized Systems		
	OWNR or Equivalent On-site Treatment and Disposal Systems	Secondary Treatment	Best Available Treatment (BAT)	Advanced Wastewater Treatment (AWT)
Cesspit	1 EDU Credit	1 EDU Credit	1.0 EDU Credit	1.5 EDU Credit
Substandard OSTDS	0.5	0.5	1.0	1.5
Approved OSTDS	0.5	0	1	1.5
Secondary Treatment	n/a	n/a	1	1.5

Additionally, the unit cap for new residential development shall be linked to the following work program which identifies actions necessary to correct existing wastewater and storm water problems, as well as actions necessary to determine appropriate future growth. Beginning August 1, 2002, and each year of the work program thereafter, Monroe County and the Department of Community Affairs shall report to the Administration Commission documenting the degree to which the work program objectives for that year have been achieved. The Commission shall consider the findings and recommendations provided in those reports and shall determine whether substantial progress has been achieved toward accomplishing the tasks of the work program. If the Commission determines that substantial progress has not been made, the unit cap for new residential development shall be reduced by at least 20 percent for the following year. If the Commission determines that substantial progress has been made, then the Commission shall increase the unit cap for new residential development for the following year up to a maximum of 197 units. Other agencies identified in the work program, or any interested persons, may likewise report and make recommendations for consideration by the Commission. Notwithstanding any other dates set forth in this plan, the dates set forth in the work program shall control where conflicts exist. For each task in the work program, the Department of Community Affairs shall request of all relevant and

appropriate federal, state, regional, and local agencies that they contribute any relevant data, analysis and recommendations, and that they take an active role in assisting the county in completing the task. Each such agency shall prepare, in coordination with the county, a section to be included in Monroe County's reports which indicates the agency's actions relative to the work plan. The Department of Community Affairs shall specifically request that the Florida Keys National Marine Sanctuary Water Quality Protection Program Steering Committee (Water Quality Steering Committee) take an active role in coordinating with Monroe County, and relevant state and federal agencies, in the implementation of the tasks related to water quality, wastewater and storm water facilities, and in the development and implementation of the carrying capacity study. The Steering Committee will provide technical assistance and substantive comments and recommendations to ensure that the county's wastewater and storm water master plans and the carrying capacity study are consistent with the objectives of the FKNMS Water Quality Protection Program. The Steering Committee will make recommendations on wastewater systems and Hot Spot priorities prior to implementation by the County. It is the intent of this rule to accelerate the pace, and increase the effectiveness of the current cesspit replacement effort through both a regulatory and an incentive-based program. No later than August, 1999 Monroe County shall engage in a public education program to ensure that the public understands that the County is committed to the swift identification and replacement of cesspits, as a full partner with the Department of Health. The public education program shall explain the role of cesspit removal in the overall context of the Work Plan and Wastewater Master Plan. The County and the state shall request the participation of the Steering Committee in the public education program as well as the Florida Keys Aqueduct Authority.

**WORK PROGRAM**

- YEAR ONE (ending December 31, 1997)
  - A. through G. No change.
- YEAR TWO (ending December 31, 1998)
  - A. through F. No change.
- YEAR THREE (January 1, 1999 through July 12, 2000)
  - A. through I. No change.
- YEAR FOUR (July 13, 2000 through July 12, 2001)
  - A. through F. No change.
- YEAR FIVE (July 13, 2001 through July 12, 2002)
  - A. through E. No change.
- YEAR SIX (July 13, 2002 through July 12, 2003)
  - A. through D. No change.
- YEAR SEVEN (July 13, 2003 through July 12, 2004)
  - A. through B. No change.
  - (36) through (65) No change.

NAME OF PERSON TO BE CONTACTED REGARDING THE NOTICE OF CHANGE IS: Mike McDaniel, Growth Management Administrator, 2555 Shumard Oak Boulevard, Tallahassee, Florida 32399-2100, (850)487-4545

**DEPARTMENT OF CORRECTIONS**

RULE NO.: 33-602.210  
 RULE TITLE: Use of Force

**SECOND NOTICE OF CHANGE**

Notice is hereby given that the following changes have been made to the proposed rule in accordance with subparagraph 120.54(3)(d)1., F.S., published in Vol. 28, No. 5, February 1, 2002 and Vol. 28, No. 17, April 26, 2002, issues of the Florida Administrative Weekly:

33-602.210 Use of Force.

(1) through (6) No change.

(7) The Authorization For Use of Force Report and the Institutions Report of Force Used shall be completed by those staff involved either during or immediately after the tour of duty when force was used. If an emergency arises, the warden may authorize the employee to complete the reports immediately upon his return on the next calendar day. Barring such an emergency, all reports must be typed and submitted to the warden or ~~acting assistant~~ warden within 1 working day (Monday through Friday) following the incident.

(8) The warden or ~~acting assistant~~ warden shall immediately conduct a preliminary review of the video tape(s) and all associated reports for signs of excessive force or procedural deviation. If signs of excessive force or procedural deviation are noted by the warden or assigned inspector, she or he will notify the Office of the Inspector General directly, so that there is no undue delay in initiating an investigation. The warden shall then appoint a staff member of equal or higher rank than those involved in the use of force to collect all pertinent information and required documentation. This information will include the reports of all involved staff and the statements of staff witnesses, inmate witnesses, the inmate subject, and the completed Use of Force File Checklist, Form DC1-813. All ~~inmate~~ statements (subject and witnesses) shall be made in writing using the Witness Statement, Form DC6-112C. Form DC6-112C is incorporated by reference in Rule 33-601.313, F.A.C. All employees who witness but do not participate in the use of force shall complete an Incident Report, Form DC6-210. Form DC6-210 is incorporated by reference in subsection (19) of this rule. This process will be completed within 5 working days (Monday through Friday). The warden shall review the information and note any inappropriate actions. The warden shall review the Use of Force File Checklist, Form DC1-813, and shall forward the videotape(s) and associated reports on the use of force and the warden's review to the institutional inspector within five working days. Form DC1-813 is incorporated by reference in subsection (19) of this rule. The institutional inspector will

ensure that all documentation is complete and will forward all materials to the Use of Force Unit within the Office of the Inspector General (OIG) within 5 working days. The OIG, following its review, will either approve the use of force action or disapprove it. If necessary, it will be referred for investigation before final approval or disapproval. If disapproved, the OIG shall advise the warden in writing of the reason for the disapproval so that the warden can take any needed corrective action. If employee disciplinary action appears warranted, the warden shall forward the materials to the service center employee relations supervisor. Form DC6-296, Disapproved Use of Force/ Disposition Report, shall be used for this purpose. Form DC6-296 is incorporated by reference in subsection (19) of this rule. The warden shall document all corrective action taken. Copies of the employee's report, the warden's summary and the inspector general's review and determination shall be kept in the inmate's file. A Use of Force Log, Form DC2-802, shall be placed in every employee's personnel file. This form will be maintained by the servicing personnel office and shall contain a record of every report of use of force and staff supplement completed by the employee. The warden or his or her designee shall be responsible for submitting accurate information to the personnel office in order to maintain the DC2-802. Any use of force reports completed prior to April 15, 1998 shall also remain in the file. Form DC2-802, Use of Force Log, is incorporated by reference in subsection (19) of this rule.

(9) No change.

(10) Force or restraint may be used to administer medical treatment when ordered by a physician or clinical associate, and only when treatment is necessary to protect the health of other persons, as in the case of contagious and venereal diseases, or when treatment is offered in satisfaction of a duty to protect the inmate against self-inflicted injury or death. The physician or clinical associate shall prepare a report documenting the reasons that force or restraint was authorized. Form DC6-232, Authorization For Use Of Force Report, shall be used for this purpose. The physician's or clinical associate's report shall be attached to the Institutions Report of Force Used when actual force is used, or the Incident Report, Form DC6-210, in cases when restraints are applied without the use of force as described above. In each instance a DC4-701C, Emergency Room Record, shall be completed in its entirety with applicable data, or the letters N/A used to indicate not applicable. Form DC4-708, Diagram of Injury, shall also be completed in its entirety with applicable data, or the letters N/A used to indicate not applicable. In each case, the examination shall be complete and result in a clear statement by the medical provider that there is or is not an injury, and the record shall provide sufficient documentation to support that conclusion. In all cases where physical force is used to manage an inmate, the inmate and any employee who is involved will be required to receive a medical examination or will sign a Refusal of Health Services Affidavit, Form DC4-711A,

declining the examination. In those cases where an injury is claimed but not substantiated by medical examination, the statement by the medical provider shall indicate this, and the documentation shall be sufficient to support that no injury was found upon examination. Forms DC4-711A, DC4-701C and DC4-708 are incorporated by reference in subsection (19) of this rule. When the use of psychiatric restraints (leather or vinyl waist belt, wrist cuffs and leg restraints; protective helmets; four point restraints) is authorized and the inmate does not offer resistance to the application of the restraints, the completion of an Institutions Report of Force Used, Form DC6-230, or an Institutions Report of Force Used Staff Supplement, Form DC6-231, will not be required. In these situations, where there is no resistance to the application of psychiatric restraints, the application of the restraints will be videotaped and an Incident Report, Form DC6-210, will be completed. The videotape, the completed incident report, and the completed Authorization for Use of Force Report, Form DC6-232, will be forwarded to the warden or acting warden for review within one working day. The warden will forward the videotape and associated reports to the institutional inspector within five working days. The institutional inspector will ensure that all documentation is complete and will forward all materials to the Office of the Inspector General, as outlined in subsection (8) above, for review. If at any time prior to or during the application of the psychiatric restraints the inmate offers resistance to the application, the steps outlined in subsection (6) above will be followed, to include the completion of the Authorization for Use of Force Report, Form DC6-232.

(11) The use of electronic immobilization devices, batons, chemical agents, or specialty impact munitions within institutions shall be authorized only by the warden, or duty warden if the warden is not available. ~~For purposes of this rule, the duty warden shall be an assistant warden, colonel, major of a work camp that is attached to a major institution, or a major of a work release center if so designated by the warden and regional director (taking into consideration the proximity of the work release center to the institution).~~ Batons shall be used only by trained baton squad members to disarm an inmate or during situations in which the squad has been activated to quell a disturbance. The decision to use chemical agents, specialty impact munitions, or authorized electronic immobilization devices shall be based on which level of force is most likely to resolve the situation with the least amount of injury to all parties involved. Hands-on physical force shall be avoided if injury is less likely to occur by using chemical agents, specialty impact munitions, or electronic immobilization devices.

(12) No change.

(13) Use of electronic immobilization devices.

(a) through (d) No change.

(e) When in a close management or confinement setting, prior to utilizing electronic immobilization devices, the officer shall review Form DC4-650B, Chemical Agents Risk Assessment Form, to determine whether the inmate has a medical condition which may be exacerbated by use of electronic immobilization devices. If no form is available, and where time and circumstances permit, medical staff shall be consulted to determine if the inmate has any medical condition that would make the use of an electronic immobilization device dangerous to that inmate's health.

(13)(f) through (l) No change.

(m) Procedure for the use of chemical agents on disruptive inmates under controlled conditions:

1. No change.

2. If the confinement or close management lieutenant or shift supervisor's efforts to control the disorderly inmate have failed and the use of chemical agents is the least level of force that can be expected to successfully gain control of the disruptive inmate while minimizing the risk of injuries to all involved, the shift supervisor shall:

a. When in a close management or confinement setting, review Form DC4-650B, Chemical Agent Risk Assessment Form, Ensure that medical staff are contacted when time and circumstances permit, to determine if the inmate has a medical condition that would be exacerbated by prevent the use of chemical agents; if no form is available, where time and circumstances permit, contact medical staff to determine whether the inmate has any medical condition that would make the use of chemical agents dangerous to that inmate's health; and

b. Contact the warden or duty warden and request authorization to utilize chemical agents.

3. Prior to using chemical agents, the inmate again shall be counseled with concerning his behavior.

a. If this attempt to counsel with the inmate is unsuccessful, the inmate will be given a final order by staff to cease his actions. The inmate will also be informed at this time that chemical agents will be administered if he continues his disruptive behavior.

b. If the inmate continues his disruptive behavior, approximately three minutes after the order is given, staff are authorized to administer chemical agents in the form of no more than three one-second bursts. Staff are authorized to immediately utilize chemical agents if physical injury to staff or other inmates appears imminent.

c. If after approximately five minutes from the initial exposure the inmate still continues his disruptive behavior, staff are authorized to again administer chemical agents for no more than three one-second bursts.

d. If the second administration of chemical agents fails to control the inmate's disruptive behavior, the duty warden medical staff shall again be consulted to determine the next course of action. Additional actions include:

~~1. Medical or psychological intervention;~~

~~I.2-~~ Additional administration of the same type or other type of chemical agent;

~~II.3-~~ Use of electronic immobilization devices; and

~~III.4-~~ Other uses of force as authorized by this rule.

~~e.b.~~ Any uninvolved inmates in the cell or immediate area shall be given an opportunity to leave the potentially affected area, if it will not jeopardize the safety of staff or other inmates.

~~f.e.~~ Except in cases of extreme emergency as determined by the warden or duty warden, the confinement or close management lieutenant or shift supervisor shall counsel with, issue the final order, and be present during the time of the final counseling period and the administering of chemical agents.

(n) through (o) No change.

(p) Inmates exposed to chemical agents shall be allowed and encouraged to shower and change both inner and outer wear after exposure for decontamination purposes.

1. If an inmate refuses to shower or change, the refusal ~~shall~~ should be documented:

a. through c. No change.

2. No change.

(15) through (16) No change.

(17) Medical Attention Following Use of Force. Appropriate medical treatment shall be provided immediately or, in the case of a riot or other man-made or natural disaster, as soon as possible, if an inmate or employee is injured. Any treatment or follow-up action shall be documented in section III of Form DC6-230, Institutions Report of Force Used. A qualified health care provider shall examine any person physically involved in a use of force within one working day (Monday through Friday) to determine the extent of injury, if any, and shall prepare a report which shall include a statement of whether further examination by a physician is necessary. Any noticeable physical injury shall be examined by a physician and the physician shall prepare a report documenting the extent of the injury and the treatment prescribed. Such report shall be completed within 1 day of the incident and shall be submitted to the warden for initial review. The qualified health provider and physician shall use Form DC4-701C, Emergency Room Record, to document an examination following use of force. Form DC4-708, Diagram of Injury, shall be used along with Form DC4-701C to document obvious physical injuries. A copy of the report, along with the referenced forms, shall be attached to the Institutions Report of Force Used. The original reports shall be filed in the medical record.

(18) No change.

(19) The following forms are hereby incorporated by reference. Copies of these forms are available from the Forms Control Administrator, Office of the General Counsel, 2601 Blair Stone Road, Tallahassee, Florida 32399-2500.

(a) through (j) No change.

(k) DC6-232, Authorization for Use of Force Report, effective 2-7-00.

(l) DC6-296, Disapproved Use of Force/Disposition Report, effective \_\_\_\_\_.

(m) DC4-650B, Chemical Agents Risk Assessment Form, effective \_\_\_\_\_.

**WATER MANAGEMENT DISTRICTS**

**South Florida Water Management District**

RULE NO.: 40E-4.091  
 RULE TITLE: Publications, Rules and Interagency Agreements Incorporated by Reference

**NOTICE OF CHANGE**

Notice is hereby given that the following change has been made to the proposed rule in accordance with Section 120.54(3)(d)1., F.S., published in Vol. 28, No. 10, March 8, 2002, issue of the Florida Administrative Weekly. The change is the deletion of certain duplicative proposed rule text set forth within the same Section 4.2.8, "Basis of Review for Environmental Resource Permit Applications within the South Florida Water Management District – January 2001" (ERP BOR) incorporated by reference in paragraph 40E-4.091(1)(a), F.A.C. The duplicative proposed rule text is redundant and unnecessary. When the redundant rule text is removed, the proposed amendments to Section 4.2.8, ERP BOR are as follows:

**4.2.8 Cumulative Impacts**

Pursuant to paragraph 4.1.1(g), an applicant must provide reasonable assurances that a regulated activity will not cause unacceptable cumulative impacts upon wetlands and other surface waters within the same drainage basin as the regulated activity for which a permit is sought. The impact on wetlands and other surface waters shall be reviewed by evaluating the impacts to water quality as set forth in subsection 4.1.1(c) and by evaluating the impacts to functions identified in subsection 4.2.2. If an applicant proposes to mitigate these adverse impacts within the same drainage basin as the impacts, and if the mitigation fully offsets these impacts, the District will consider the regulated activity to have no unacceptable cumulative impacts upon wetlands and other surface water, and consequently the condition for issuance in Section 4.1.1(g), will be satisfied. The drainage basins within the District are identified on Figure 4.2.8-1.

When adverse impacts to water quality or adverse impacts to the functions of wetlands and other surface water, as referenced in the paragraph above, are not fully offset within the same drainage basin as the impacts, then a An applicant must provide reasonable assurance that the proposed system, when considered

with the following activities, will not result in unacceptable cumulative impacts to water quality or the functions of wetlands and other surface waters, within the same drainage basin:

(a) and (b) No change.

~~Only~~ Those activities listed in paragraphs (a) and (b) which have similar types of adverse impacts to those which will be caused by the proposed system will be considered. (All citations in paragraphs (a) and (b) refer to provisions of Florida Statutes.)

Last paragraph of Section 4.2.8 No change.

**WATER MANAGEMENT DISTRICTS**

**South Florida Water Management District**

RULE NO.: 40E-4.091  
 RULE TITLE: Publications, Rules and Interagency Agreements Incorporated by Reference

**NOTICE OF WITHDRAWAL**

Pursuant to Section 120.54(3)(d)1., F.S., notice is hereby given that the proposed amendments to Sections 4.2.8.1; 4.2.8.2., and proposed creation of Section 4.2.8.3., "Basis of Review for Environmental Resource Permit Applications within the South Florida Water Management District – January 2001" (ERP BOR) incorporated by reference in paragraph 40E-4.091(1)(a), F.A.C., as noticed in Vol. 28, No. 10, March 8, 2002, issue of the Florida Administrative Weekly, have been withdrawn in order to avoid redundancy because the proposed rule text is set forth in Section 4.2.8 of the ERP BOR.

**AGENCY FOR HEALTH CARE ADMINISTRATION**

**Health Facility and Agency Licensing**

RULE CHAPTER NO.: 59A-27  
 RULE CHAPTER TITLE: Health Care Services Pools

**NOTICE OF CHANGE**

Notice is hereby given that the following changes have been made in the above-cited rule as published in Vol. 28, No. 10, Florida Administrative Weekly, March 8, 2002, and as altered in a Notice of Change published in Vol. 28, No. 18, Florida Administrative Weekly, May 3, 2002, Purchase Order Number J00693. Upon review, errors were discovered and the following changes have been made.

In the previous Notice of Change, a change was noticed in paragraph 59A-27.006(3)(c), F.A.C., "Documentation of all other required personnel information." is deleted and replaced with "Documentation of personnel information ensuring compliance with Section 400.980(11), F.S."

The change was accurate but the location was incorrect. There is no paragraph 59A-27.006(3)(c), F.A.C. The proper location for this change is paragraph 59A-27.006(2)(c), F.A.C. The notice should have read:



In paragraph 59A-27.006(2)(c), F.A.C., "Documentation of all other required personnel information." is deleted and replaced with "Documentation of personnel information ensuring compliance with Section 400.980(11), F.S."

In the previous Notice of Change, a change was noticed in paragraph 59A-27.006(3)(f), F.A.C., "Rule 64B22-1.005, F.A.C." is deleted and replaced with "Rule 59A-27.005, F.A.C."

The change was accurate but the location was incorrect. There is no paragraph 59A-27.006(3)(f), F.A.C.

The proper location for this change is paragraph 59A-27.006(2)(h), F.A.C. The notice should have read:

In paragraph 59A-27.006(2)(h), F.A.C., "Rule 64B22-1.005, F.A.C." is deleted and replaced with "Rule 59A-27.005, F.A.C."

In the previous Notice of Change, a change was noticed in subsection 59A-27.006(4), F.A.C., the sentence "The cost of processing the criminal background check shall be borne by the petitioning party." is altered to read "The cost of processing the criminal records background check shall be borne by the petitioning party pursuant to Section 435.08, F.S."

The change was accurate but the location was incorrect. There is no subsection 59A-27.006(4), F.A.C.

The proper location for this change is subparagraph 59A-27.006(3)(a)2., F.A.C. That change was noticed properly in the last Notice of Change published in Vol. 28, No. 18, Florida Administrative Weekly, May 3, 2002, Purchase Order Number J00693. It read:

In subparagraph 59A-27.006(3)(a)2., F.A.C., the sentence "The cost of processing the criminal records background check shall be borne by the petitioning party." is altered to read "The cost of processing the criminal records background check shall be borne by the petitioning party pursuant to Section 435.08, F.S."

**DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION**

**Florida Real Estate Commission**

RULE NO.:                      RULE TITLE:  
61J2-2.031                      Where to Apply

**NOTICE OF CORRECTION**

The Department of Business and Professional Regulation, Florida Real Estate Commission, announces a correction to the Notice of Proposed Rule Development, which appeared in the April 26, 2002 issue of the Florida Administrative Weekly, Vol. 28, No. 17. Specifically, the notice published regarding Rule No. 61J2-2.031 referred to Applications by Individuals under Rule Title in error.

**DEPARTMENT OF HEALTH**

**Board of Occupational Therapy Practice**

RULE NO.:                      RULE TITLE:  
64B11-2.007                      HIV/AIDS and Medical Error  
Prevention Education for Initial  
Licensure

**NOTICE OF CHANGE**

Notice is hereby given that the following changes have been made to the proposed rule in accordance with subparagraph 120.54(3)(d)1., F.S., published in the Vol. 28, No. 9, March 1, 2002, issue of the Florida Administrative Weekly. The changes are in response to comments from JAPC and the Board meeting held on April 8, 2002.

The rule shall now read as follows:

64B11-2.007 HIV/AIDS and Medical Error Prevention Education for Initial Licensure.

(1) through (3) No change.

(4) All applicants for licensure shall submit to the Board proof of completion of a 2-hour course relating to the prevention of medical errors. The course must have been approved by the Board and may be one offered by a facility licensed pursuant to Chapter 395, Florida Statutes. The course shall include a study of root-cause analysis, error reduction and prevention, and patient safety.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Kaye Howerton, Board Executive Director, Board of Occupational Therapy Practice, 4052 Bald Cypress Way, Bin #C05, Tallahassee, Florida 32399-3255

**DEPARTMENT OF HEALTH**

**Board of Occupational Therapy Practice**

RULE NO.:                      RULE TITLE:  
64B11-3.005                      HIV/AIDS and Medical Error  
Prevention Education for Initial  
Licensure

**NOTICE OF CHANGE**

Notice is hereby given that the following changes have been made to the proposed rule in accordance with subparagraph 120.54(3)(d)1., F. S., published in the Vol. 28, No. 9, March 1, 2002, issue of the Florida Administrative Weekly. The changes are in response to comments from JAPC and the Board meeting held on April 8, 2002.

The rule shall now read as follows:

64B11-3.005 HIV/AIDS and Medical Error Prevention Education for Initial Licensure.

(1) through (3) No change.

(4) All applicants for licensure shall submit to the Board proof of completion of a 2-hour course relating to the prevention of medical errors. The course must have been approved by the Board and may be one offered by a facility

licensed pursuant to Chapter 395, Florida Statutes. The course shall include a study of root-cause analysis, error reduction and prevention, and patient safety.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Kaye Howerton, Board Executive Director, Board of Occupational Therapy Practice, 4052 Bald Cypress Way, Bin #C05, Tallahassee, Florida 32399-3255

**DEPARTMENT OF HEALTH**

**Board of Occupational Therapy Practice**

RULE NO.: 64B11-5.001  
 RULE TITLE: Requirements for License Renewal of an Active License

**NOTICE OF CHANGE**

Notice is hereby given that the following changes have been made to the proposed rule in accordance with subparagraph 120.54(3)(d)1., F.S., published in the Vol. 28, No. 3, January 18, 2002, issue of the Florida Administrative Weekly. The changes are in response to comments from JAPC and the Board meeting held on April 8, 2002.

The rule shall now read as follows:

64B11-5.001 Requirements for License Renewal of an Active License.

An active license shall be renewed upon demonstration that the licensee has paid the renewal fee set forth in Rule 64B11-2009 or 64B11-3.007, F.A.C., respectively, and has complied with the following requirements:

- (1) through (4) No change.
- (5) Each licensee shall attend and certify attending a Board-approved 2-hour continuing education course relating to the prevention of medical errors. The 2-hour course shall count toward the total number of continuing education hours required for licensure renewal. The course shall include a study of root-cause analysis, error reduction and prevention, and patient safety.

(6) through (8) No change.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Kaye Howerton, Board Executive Director, Board of Occupational Therapy Practice, 4052 Bald Cypress Way, Bin #C05, Tallahassee, Florida 32399-3255

**DEPARTMENT OF HEALTH**

**Board of Occupational Therapy Practice**

RULE NO.: 64B11-6.001  
 RULE TITLE: Continuing Education Program Approval

**NOTICE OF CHANGE**

Notice is hereby given that the following changes have been made to the proposed rule in accordance with subparagraph 120.54(3)(d)1., F.S., published in the Vol. 28, No. 15, April 12, 2002, issue of the Florida Administrative Weekly. The changes are in response to the Board meeting held on April 8, 2002.

The rule shall now read as follows:

64B11-6.001 Continuing Education Program Approval.

- (1) No change.
- (2) When attending an approved program, a licensee must attest by signature that he or she has attended the workshop and attendance must be certified by the program's registrar.
- (3) No change.
- (4) Programs meeting the above criteria and offered by the Florida Occupational Therapy Association (FOTA), the American Occupational Therapy Association (AOTA) and occupational therapy courses accredited by an accrediting board for occupational therapy shall be approved by this Board for continuing education and shall not pay the fees required in subsection (1) of this rule.
- (5) through (7) No change.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Kaye Howerton, Board Executive Director, Board of Occupational Therapy Practice, 4052 Bald Cypress Way, Bin #C05, Tallahassee, Florida 32399-3255

**DEPARTMENT OF HEALTH**

**Board of Orthotists and Prosthetists**

RULE NO.: 64B14-2.001  
 RULE TITLE: Licensure under the provisions of section 468.805 Without Examination Fees

**NOTICE OF WITHDRAWAL**

Notice is hereby given that the above rule, as noticed in Vol. 28, No. 3, January 18, 2002, Florida Administrative Weekly has been withdrawn.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Sue Foster, Board Executive Director, Board of Orthotists and Prosthetists, 4052 Bald Cypress Way, Bin #C08, Tallahassee, Florida 32399-3258

**DEPARTMENT OF HEALTH**

**Board of Osteopathic Medicine**

RULE NO.: 64B15-14.004  
 RULE TITLE: Standards for the Prescription of Obesity Drugs

**NOTICE OF PUBLIC HEARING**

The Board of Osteopathic Medicine hereby gives notice of a public hearing on the above-referenced rule to be held on Friday, June 7, 2002 at 5:00 p.m., at The Hyatt Regency, 50 Alhambra Plaza, Coral Gables, Florida. The rule was originally published in Vol. 28, No. 8, of the February 22, 2002, Florida Administrative Weekly. The hearing is being held in response to a request by the Florida Osteopathic Medical Association and correspondence received by the staff of the Joint Administrative Procedures Committee.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Karen Eaton, Executive Director, Board of Osteopathic Medicine/MQA, 4052 Bald Cypress Way, Bin #C06, Tallahassee, Florida 32399-3256.

Any person requiring a special accommodation at this hearing because of a disability or physical impairment should contact the Board's Executive Director at least five calendar days prior to the hearing. If you are hearing or speech impaired, please contact the Board office using the Florida Dual Party Relay System which can be reached at 1(800)955-8770 (Voice) and 1(800)955-8771 (TDD).

**DEPARTMENT OF HEALTH**

**Board of Podiatric Medicine**

RULE NOS.:	RULE TITLES:
64B18-14.002	Penalties
64B18-14.010	Citations

**SECOND NOTICE OF CHANGE**

Pursuant to subparagraph 120.54(3)(d)1., F.S., notice is hereby given that the following changes have been made to the proposed rules in response to comments received from the staff of the Joint Administrative Procedures Committee and comments provided during the February 1, 2002 and April 26, 2002, telephone conference calls. A Notice of Change was previously published for Rule 64B18-14.002, F.A.C., in Vol. 8, No. 7, February 15, 2002 Florida Administrative Weekly, and the Board determined that in order to avoid any confusion, a substantial rewording of this rule is necessary. The Board determined that since only an amendment is being made to Rule 64B18-14.010, F.A.C., previously published in Vol. 27, No 45, November 9, 2001, Florida Administrative Weekly, that a substantial rewording of this rule is not necessary.

Rule 64B18-14.002 in its entirety shall now read as follows:

(1) Unless mitigating or aggravating factors are demonstrated when the Board finds an applicant or licensee whom it regulates under Chapter 461, Florida Statutes, has committed any of the acts set forth in either Section 461.012 or 456.072, Florida Statutes, it shall issue a final order imposing appropriate penalties, plus costs based upon the severity and repetition of the offense within the ranges recommended in the following disciplinary guidelines:

(a) Practicing or attempting to practice podiatric medicine or advertising podiatric services in this State without an active license to practice podiatric medicine pursuant to Chapter 461, Florida Statutes, or with a license fraudulently obtained. In the case of an applicant, the Board shall deny the application. In the case of a licensee who has obtained or attempted to obtain a license by fraud, the Board shall impose probation to revocation and a fine of \$10,000. In the case of a licensee who has practiced, attempted to practice, or advertised while holding an inactive license, the Board shall impose a reprimand with or without a period of suspension and a fine of \$10,000.

(b) Using or attempting to use a license to practice podiatric medicine which has been suspended. The Board shall impose a penalty of revocation.

(c) Selling or fraudulently obtaining or furnishing any podiatry diploma, license, or record of registration or aiding or abetting in the same. The Board in the case of a licensee shall impose a penalty ranging from suspension to revocation and a fine of \$10,000. In the case of an applicant, the Board shall deny the application.

(d) Making any willfully false oath or affirmation whenever an oath or affirmation is required by chapter 461, Florida Statutes. The Board in the case of licensee shall impose a penalty ranging from suspension to revocation and a fine of \$10,000. In the case of an applicant, the Board shall also deny the application in addition to the \$10,000 fine.

(e) Using the name or title "Podiatrist," "Doctor of Podiatry," "Doctor of Podiatric Medicine," or using the phrase "foot clinic," "foot doctor," "Podiatric Technician," or any other name, title, or phrase which would lead the public to believe that such person is engaging in the practice of podiatric medicine, unless such person is licensed as a podiatrist in this State. The Board in the case of a licensee shall impose a penalty ranging from a reprimand to suspension, and a fine of \$1000 to \$10,000. In the case of an applicant, the Board shall deny the application. If fraud, making a false or fraudulent representation is alleged and shown, a \$10,000 fine shall be imposed in addition to other actions.

(f) Knowingly concealing information relative to a violation of Chapter 461, Florida Statutes. The Board in the case of a licensee shall impose a penalty ranging from a reprimand to probation, and an administrative fine from \$250 to \$1000. In the case of an applicant, the Board shall deny the application.

(2) Unless mitigating or aggravating factors are demonstrated when the Board finds an applicant or licensee whom it regulates under Chapter 461, Florida Statutes, has committed any of the acts set forth in either Section 461.013(1), 456.013(7), 456.033, 456.053, 456.062, 456.067 or 456.072, Florida Statutes, it shall issue a final order imposing appropriate penalties based on the severity and repetition of the offense within the ranges recommended in the following disciplinary guidelines:

(a) Attempting to obtain, obtaining or renewing a license to practice podiatric medicine by bribery, by fraudulent misrepresentation, or through an error of the Department or the Board. In the case of an applicant, the Board shall deny the application. In the case of a licensee, the Board shall impose a penalty of a reprimand to revocation and a fine of \$500 to \$10,000, and referral for criminal investigation, if bribery; a \$10,000 fine if fraudulent misrepresentation; and a reprimand and fine of \$500 to \$1000 if error of Department.

(b) Having a license to practice podiatric medicine revoked, suspended, or otherwise acted against, including the denial of licensure, by the licensing authority of another state, territory, or country. In the case of a licensee, the Board shall impose a penalty that parallels the action taken by the other jurisdiction and a fine from \$250 to \$10,000, depending upon the nature of the offense and the substantiating evidence. In the case of an applicant, the Board shall deny the application.

(c) Being convicted or found guilty, regardless of adjudication, of a crime in any jurisdiction which directly related to the practice of podiatric medicine or the ability to practice podiatric medicine. In the case of a licensee, the Board shall impose a penalty ranging from probation to revocation and a fine of \$1000 to \$10,000, depending upon the nature of the offense and the substantiating evidence. In the case of an applicant, the Board shall deny the application.

(d) Advertising in a manner which is false, deceptive or misleading. The Board shall impose a penalty ranging from reprimand to probation and a fine of \$10,000.

(e) Advertising, practicing or attempting to practice under a name other than one's own. The Board shall impose a penalty ranging from reprimand to suspension and a fine from \$1000 to \$5000. If fraud, making a false or fraudulent representation is alleged and shown, a \$10,000 fine shall be imposed in addition to other actions.

(f) Failing to report to the Department any person the licensee knows to be in violation of Chapter 461, Florida Statutes, or the rules of the Board or Department. The Board shall impose a penalty of a reprimand and a fine of \$250 to \$1000.

(g) Aiding, assisting, procuring, permitting or advising any unlicensed person to practice podiatric medicine contrary to Chapter 461, Florida Statutes, or the rules of the Board or Department. The Board shall impose a penalty of probation to suspension and a fine from \$1000 to \$5000. In the case of an applicant, the Board shall deny the application.

(h) Failing to perform any statutory or legal obligation placed upon a licensed podiatrist. The Board shall impose a penalty ranging from reprimand to suspension and a fine of \$250 to \$10,000.

(i) Making or filing a report or record which the licensee knows to be false, intentionally or negligently failing to file a report or record required by state or federal law, willfully impeding or obstructing such filing, or inducing another person to impede or obstruct such filing. Such reports or records shall include only those which are signed in the capacity of a licensed podiatrist. If negligent, the Board shall impose a penalty ranging from reprimand to probation and a fine of \$2500 to \$10,000. If fraud, the Board shall impose a penalty ranging from probation to revocation and a fine of \$10,000.

(j) Paying or receiving any commission, bonus, kickback, rebate or engaging in any split-fee arrangement in any form whatsoever with a physician, organization, agency or person,

either directly or indirectly, for patients referred to providers of health care goods and services, including, but not limited to hospitals, nursing homes, clinical laboratories, ambulatory surgical centers or pharmacies. The Board shall impose a penalty ranging from reprimand to suspension and a fine of \$1000 to \$5000.

(k) Making misleading, deceptive, untrue or fraudulent representations in the practice of podiatric medicine or employing a trick or scheme in the practice of podiatric medicine when such scheme or trick fails to conform to the generally prevailing standards of treatment in the podiatric community. The Board shall impose a penalty ranging from probation to suspension and a fine of \$10,000.

(l) Soliciting patients either personally or through an agent. The Board shall impose a penalty ranging from reprimand to probation and a fine of \$500 to \$2000.

(m) Failing to keep written medical records justifying the course of treatment of the patient. The Board shall impose a penalty ranging from reprimand to probation and a fine of \$250 to \$1000.

(n) Exercising influence on the patient or client in such a manner as to exploit the patient or client for financial gain of the licensee or of a third party. The Board shall impose a penalty ranging from probation to suspension and a fine of \$1000 to \$5000.

(o) Performing professional services which have not been duly authorized by the patient or client or his legal representative. The Board shall impose a penalty ranging from reprimand to probation and a fine of \$1000 to \$10,000.

(p) Prescribing, dispensing, administering, mixing or otherwise preparing a legend drug, including all controlled substances, other than in the course of the podiatrist's professional practice. The Board shall impose a penalty ranging from probation to revocation and a fine of \$1000 to \$10,000.

(q) Prescribing, dispensing, or administering any medicinal drug appearing on any schedule set forth in chapter 893 by the podiatrist to himself except those prescribed, dispensed or administered to the podiatrist by another practitioner authorized to prescribe, dispense or administer them. The Board shall impose a penalty ranging from probation to suspension and a fine of \$1000 to \$10,000.

(r) Prescribing, ordering, dispensing, administering, supplying, selling or giving amphetamine or sympathomimetic amine drug or compound designated as a Schedule II controlled substance pursuant to chapter 893. The Board shall impose a penalty ranging from suspension to revocation and a fine of \$1000 to \$10,000.

(s) Being unable to practice podiatric medicine with reasonable skill and safety to patients by reason of illness, or use of alcohol, drugs, narcotic, chemicals or any other type of material or as a result of any mental or physical condition. The Board shall impose a penalty of suspension until such time as

the licensee demonstrates rehabilitation followed by probation under such terms and conditions as set by the Board and a fine from \$250 to \$500. If the individual is an applicant, the Board shall deny the application.

(t) Gross or repeated malpractice or the failure to practice podiatric medicine at a level of care, skill, and treatment which is recognized by a reasonably prudent podiatrist as being acceptable under similar conditions and circumstances. The Board shall impose a penalty ranging from probation to revocation and a fine of \$1000 to \$10,000, depending on the severity of the offense.

(u) Performing any procedure or prescribing any therapy which, by prevailing standards of podiatric practice in the community, would constitute experimentation on human subjects without first obtaining full, informed, and written consent. The Board shall impose a penalty ranging from probation to revocation and a fine of \$1000 to \$10,000.

(v) Practicing or offering to practice beyond the scope permitted by law or accepting and performing professional responsibilities which the licensee knows or has reason to know that he is not competent to perform. The Board shall impose a penalty ranging from probation to revocation and a fine of \$1000 to \$5000, depending on the severity of the offense.

(w) Delegating professional responsibilities to a person when the licensee delegating such responsibilities knows or has reason to know that such person is not qualified by training, experience or licensure to perform them. The Board shall impose a penalty ranging from reprimand to probation and a fine of \$500 to \$2000.

(x) Violating any provision of Chapters 461 or 456, Florida Statutes, or any rule of the Board or Department. The Board shall impose a penalty ranging from reprimand to revocation and a fine of \$1000 to \$10,000, depending on the severity of the offense.

(y) Conspiring with another licensee or with any other person to commit an act, or committing an act, which would tend to coerce, intimidate or preclude another licensee from lawfully advertising his services. The Board shall impose a penalty of reprimand to probation and a fine of \$500 to \$1500.

(z) Prescribing, ordering, dispensing, administering, supplying, selling or giving growth hormones, testosterone or its analogs, human chorionic gonadotropin (CG), or other hormones for the purpose of muscle building or to enhance athletic performance. The Board shall impose a penalty ranging from probation to suspension and a fine of \$1000 to \$5000.

(aa) Fraud, deceit, or misconduct in the practice of podiatric medicine. The Board shall impose a penalty ranging from probation to revocation and a fine of \$5000 to \$10,000, depending on the severity of the offense.

(bb) Failure to report to the Department any licensee under Chapter 458 or 459, F.S., for violations of disciplinary provisions of their laws and rules. In the case of a licensee, the Board shall impose a penalty of a reprimand and an administrative fine of \$250 to \$1000.

(cc) Failure to comply with the requirements of Sections 381.026 and 381.0261, F.S., to provide patients with information regarding their patient rights. In the case of a licensee, the Board shall impose a penalty of a reprimand to probation and an administrative fine from \$250 to \$1000.

(dd) Entering a plea of nolo contendere to a crime which relates to the practice of, or the ability to practice podiatric medicine. In the case of a licensee, the Board shall impose a penalty of probation to revocation and an administrative fine of \$500 to \$1000. In the case of an applicant, the Board shall deny the application.

(ee) Failure to comply with HIV/AIDS education requirement. The Board shall impose an administrative fine from \$500 to \$1000.

(ff) Having been found liable in a civil proceeding for knowingly filing a false report or complaint with the Department against another licensee. The Board shall impose a penalty ranging from probation to suspension and a fine of \$500 to \$1000.

(gg) Engaging or attempting to engage a patient or client in verbal or physical sexual activity. The Board shall impose a penalty ranging from probation to revocation and a fine of \$500 to \$1000.

(hh) Failure to comply with the requirements of profiling or credentialing. The Board shall impose an administrative fine from \$500 to \$1000.

(ii) Failure to report a criminal conviction or plea to the Board in writing within 30 days. The Board shall impose a penalty ranging from reprimand and a \$500 to \$1000 administrative fine up to probation and a \$500 to \$1000 administrative fine.

(jj) Using information about people involved in motor vehicle accidents which has been derived from accident reports. The Board shall impose a penalty ranging from reprimand to probation and an administrative fine of \$1000 to \$5000.

(kk) Sexual misconduct under section 456.063, Florida Statutes, shall result in denial of licensure or relinquishment or revocation of the license.

(ll) Testing positive on a preemployment drug screen. The Board shall impose a \$500 fine and refer the licensee to PRN for screening and possible treatment if medically necessary.

(mm) Performing health care services on the wrong patient, wrong-site, wrong or unauthorized procedure. The Board shall impose a penalty ranging from probation to suspension, require continuing medical education, and impose a fine of \$1000 to \$5000.

(nn) Leaving a foreign object in patient. The Board shall impose a fine of \$1000 to \$5000.

(oo) Failure to complete the two hour course on medical errors. The Board shall impose a fine of \$500 to \$1000.

(pp) Using a Class III or Class IV laser device or product, as defined by federal regulations, without having complied with the rules adopted pursuant to Section 501.122(2), Florida Statutes, governing the registration of such devices with the Department of Health and Rehabilitative Services. The Board shall impose a penalty ranging from reprimand to probation and a fine of \$250 to \$1,000.

(qq) Improperly interfering with an investigation or inspection authorized by statute, or with any disciplinary proceeding. The Board shall impose a penalty ranging from suspension to revocation and a fine of up to \$1,000.

(rr) Failure to report sexual misconduct. The Board shall impose a fine of \$1000 to \$5000.

Subsection (6) of Rule 64B18-14.010, F.A.C., shall now read as follows:

(6) Should the licensee fail to or refuse to accept a citation, the matter shall be referred to the probable cause panel for procedures consistent with provisions of Section 456.072, Florida Statutes, and the penalties outlined in Rule 64B18-14.002, F.A.C.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Joe Baker, Jr., Executive Director, Board of Podiatric Medicine/MQA, 4052 Bald Cypress Way, Bin #C07, Tallahassee, Florida 32399-3257

**DEPARTMENT OF HEALTH**

**Board of Psychology**

RULE NO.: 64B19-11.012                      RULE TITLE: Application Forms

**NOTICE OF CHANGE**

Notice is hereby given that the following changes have been made to the proposed rule in accordance with subparagraph 120.54(3)(d)1., F.S., published in Vol. 28, No. 4, of the January 25, 2002, issue of the Florida Administrative Weekly. The changes are in response to written comments submitted by the staff of the Joint Administrative Procedures Committee (JAPC). The Board, at its meeting held via telephone conference call on April 12, 2002, voted to change some of the content of its forms to address the concerns of JAPC. The changes are as follows:

1. Subsection (1) shall be changed to read:

(1) All applicants for licensure pursuant to Chapter 490, F.S., shall complete and submit form DOH/MQA/PY APP/REV. 4/02, "Application for Psychologist Licensure," effective \_\_\_\_\_, which is incorporated herein by reference and which may be obtained from the Board office.

2. Subsection (4) shall be changed to read:

(4) All applicants for licensure other than those applying for licensure pursuant to Section 490.006, F.S., shall complete and submit DOH/MQA/PY SUP/REV. 4/02, "Supervising Psychologist Verification Form," effective \_\_\_\_\_, which is incorporated herein by reference and which may be obtained from the Board office.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Kaye Howerton, Executive Director, Board of Psychology, 4052 Bald Cypress Way, Bin #C05, Tallahassee, Florida 32399-3255.

**Section IV  
Emergency Rules**

**DEPARTMENT OF THE LOTTERY**

RULE TITLE: Replacement of Obsolete Emergency Rule                      RULE NO.: 53ER02-25

SUMMARY OF THE RULE: This emergency rule is replacing another emergency rule that has been determined to be obsolete or unnecessary by the Department of the Lottery.

THE PERSON TO BE CONTACTED REGARDING THE EMERGENCY RULE IS: Diane D. Schmidt, Department of the Lottery, 250 Marriott Drive, Tallahassee, Florida 32399-4011

THE FULL TEXT OF THE EMERGENCY RULE IS:

53ER02-25 Replacement of Obsolete Emergency Rule.  
Emergency Rule 53ER02-24, F.A.C., is being replaced by this emergency rule because the retailer promotion set forth in Emergency Rule 53ER02-24, F.A.C., has been cancelled and therefore, the rule is obsolete.

Specific Authority 24.109(1), 24.105(2) FS. Law Implemented 24.109(1), 120.74(1)(c) FS. History—New 4-25-02, Replaces 53ER02-24, F.A.C.

THIS EMERGENCY RULE TAKES EFFECT IMMEDIATELY UPON BEING FILED WITH THE DEPARTMENT OF STATE.

EFFECTIVE DATE: April 25, 2002

**Section V  
Petitions and Dispositions Regarding Rule  
Variance or Waiver**

**DEPARTMENT OF TRANSPORTATION**

NOTICE IS HEREBY GIVEN that, on April 30, 2002, the Florida Department of Transportation issued an order denying the Petition of North Florida Pecan 1 & 2, seeking a waiver of the provisions of Rule 14-10.007, F.A.C. The Petition for Waiver was received by the Department on January 30, 2002.